IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

WP(C).No. 30412 of 2007(U)

[CRIME NO.386/2007 OF CENTRAL POLICE STATION, ERNAKULAM]

PETITIONER:

PULIKKATHARA SABU
PULLIKKATHARA HOUSE, NORTH PARUR,
ERNAKULAM

BY ADV. SRI.SHAIJAN C.GEORGE
SRI.JOHN VIPIN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED
BY THE SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM
2. INSPECTOR GENERAL OF POLICE (CRIMES),
THIRUVANANTHAPURAM

3. CIRCLE INSPECTOR OF POLICE,
CENTRAL POLICE STATION,
ERNAKULAM

4. VIJAYAKUMAR, SUB INSPECTOR OF POLICE
CENTRAL POLICE STATION
ERNAKULAM

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.No.30412 of 2007

Dated this the 11th day of October 2007

J U D G M E N T

The petitioner is the de facto complainant in a crime registered for offences punishable inter alia under Sections 403, 420 and 468 I.P.C. The crime has been registered on the basis of a private complaint filed by the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. The police conducted the investigation. After conducting the investigation, the investigating officer appears to have come to the decision that no charge sheet need be filed. Negative final report deserves to be filed. The petitioner has been informed of that decision as per Ext.P4.

2. I should think that it is for the petitioner to appear before the learned Chief Judicial Magistrate and raise his objections, if any, against the negative final report filed by the investigating officer . He can appear personally or through counsel and raise all his objections against the final report. It is trite that in such objections he can request the learned Magistrate to send the matter back to the investigating officer to continue the investigation. He can also request the learned Magistrate to

accept the report and take cognizance notwithstanding the fact that it is a negative report. Needless to say, the petitioner has the third alternative of filing a protest complaint also. The learned counsel for the petitioner submits that the petitioner is employed abroad and there are practical difficulties in filing a protest complaint now before the learned Magistrate.

3. Be that as it may, the petitioner can certainly appear before the learned Magistrate personally or through counsel and raise all his objections against acceptance of the final report. He can urge before the learned Magistrate that no proper investigation has been conducted and the matter deserves to be referred back to the investigating officer to conduct proper investigation. The objections of the petitioner will have to be considered and appropriate decision taken by the learned Magistrate.

4. The petitioner can either personally or through his counsel appear before the learned Magistrate on 5/11/2007 to raise his objections.

Communicate a copy of this order to the learned Magistrate forthwith.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007